IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 6769 of 1995

Between:

Z.N.V.R. High School, Penugonda, West Godavari district, rep., by its Correspondent Nuli Venkata Soma Raju s/o. Lakshmi Narayana, Aged: 58 years.

..... PETITIONER

AND

1 The District Collector,
Eluru, West Godavari District.
2 The Revenue Divisional officer
Kovvur, West Godavari District.
3 Mandal Revenue officer
Penugonda, West Godavari District.

4. Nulli Venkata Soma Raju, S/o. Lakshmi Narayana , Aged: 62 years,
r/o Penugonda,West Godavari District,

5. Laxminarayana s/o Appa Rao, Aged: 51 years, r/o Cherukuwada,

Penugonda Mandal, West Godavari district.

6. Sri Nulli Venkata Soma Raju, s/o Laxminarayana, Aged: 62 years, r/o Penugonda, West Godavari district.

7. Laxminarayana s/o Appa Rao, Aged: 51 years, r/o Cherukuwada, Penugonda Mandal, West Godavari District.

(RR. 4 &5 impleaded as per Court order dated 23-09-2004 in W.P.M.P.NO. 26846 of 2001)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction particularly one in the nature Writ of Mandamus declaring the action of the respondents in interfering with the possession of the petitioner land S.No. 130/1A of Cherukuwada Village and S.No. 301 of Penugonda Village of West Godavari Dist, measuring Ac 1-75 cents and ac 1-95 cents respectively, as illegal, arbitrary and violative of principles of Natural justice and consequently to declare the alleged resumption of the lands proceedings if any as illegal, null void by restraining the respondents in interfering the possession of the petitioner school.

Counsel for the Petitioner: MR.K.V.UPENDRA GUPTA

Counsel for the respondent Nos. 1 to 3: G.P. For Revenue

Counsel for the Respondent Nos.4 & 5: MR.K.L.N.SWAMY

The Court made the following:

ORAL ORDER:

Heard the learned counsel appearing for the respective parties.

The petitioner filed the writ petition seeking a direction from this court that respondents should not interfere with the possession of the petitioner's lands under survey No. 130/1A in Cherukuwada village and under survey No.301 of Penugonda village of West Godavari district. The case of the petitioner is that the land was assigned to the school in the year 1950 and the site had to be used as a play ground.

The official respondents in their counter have stated that the land had been taken possession of by the Government as on 21-02-1995 and is in their possession. The land had been taken in possession by virtue of an order passed by the respondents on 11-02-1995 resuming the land, as the petitioner had never used this piece of land for the purpose for which it was assigned, which falls under survey No.130/1A in Cherukuwada village of West Godavari district. On the other hand, this land had been converted and used for personal gains by the petitioner. The land under survey No.301 in Penugonda village of West Godavari, which is adjacent to the school, has not been disturbed and is being used as play ground. Since an order has been passed canceling the assignment as early as in the year 1995, this petitioner cannot succeed in the absence of any challenge to that order. These are disputed questions whether the petitioner is in possession of the land or the respondents have taken possession in the year 1995. Therefore, this court will not be in a position to pass the appropriate orders. The petitioner contends that the order passed in the year 1995 was not served on him; whereas the respondents have contended that the petitioner

had refused to receive the order. The third party has also appeared and sought permission to be impleaded. The application – W.P.M.P.No.26846 of 2001 -- is allowed and the counsel is heard. According to him also, this piece of land was converted by the petitioner into his personal use and that it had grown a coconut garden and the usufruct was always used for the personal benefits of the petitioner. In this view of the matter, the writ petition is dismissed. However, the petitioner is at liberty to seek appropriate remedies, if so advised, against the order of the resumption passed in the year 1995. No costs.

BILAL NAZKI, J

Dt. 23-09-2004

Pvks/*

To

1 The District Collector,
Eluru, West Godavari District.
2 The Revenue Divisional officer
Kovvur, West Godavari District.
3 Mandal Revenue officer
Penugonda, West Godavari District.

4. 2CCs to the Government Pleader for Revenue, A.P. High Court Buildings, Hyderabad (OUT).

5. 2CD copies

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